

***STANDARDS FOR
INTERDEPARTMENTAL
REGULATION
OF CHILDREN'S
RESIDENTIAL
FACILITIES***

Commonwealth of Virginia

Department of Education

Department of Juvenile Justice

**Department of Mental Health, Mental
Retardation and Substance Abuse Services**

Department of Social Services

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CHAPTER 10 PART I INTRODUCTION

22 VAC 42-10-10. Definitions.

The following words and terms, when used in this chapter, shall have the following meanings, unless the context clearly indicates otherwise:

"Adaptive behavior" means the effectiveness or degree with which individuals with diagnosed mental disabilities meet the standards of personal independence and social responsibility expected of their age and cultural group.

"Allegation" means an accusation that a facility is operating without a license or receiving public funds for services it is not certified to provide.

"Applicable state regulation" means any regulation which the promulgating state agency determines applies to the facility. The term includes, but is not necessarily limited to modules, standards, and other regulations promulgated by the Departments of Education; Health; Housing and Community Development; Juvenile Justice; Mental Health, Mental Retardation and Substance Abuse Services; or other state agency.

"Applicant" means the person, corporation, partnership, association or public agency which has applied for a license or certificate.

"Application" means a document completed by the facility to furnish the regulatory authority details about the facility's operations and includes certifications that the facility understands and intends to comply with regulatory requirements. An application includes inspection reports necessary to verify compliance with applicable requirements of other state agencies. An application is complete when all required information is provided and the application is signed and dated by the individual legally responsible for operation of the facility.

"Aversive stimuli" means physical forces (e.g. sound, electricity, heat, cold, light, water, or noise) or substance (e.g. hot pepper, pepper sauce, or pepper spray) measurable in duration and intensity which when applied to a client are noxious or painful to the client, but in no case shall the term "aversive stimuli" include striking or hitting the client with any part of the body or with an implement or pinching, pulling, or shaking the client.

Behavior management” means those principles and methods employed by a licensee to help a child achieve positive behavior and to address and correct a child’s inappropriate behavior in a constructive and safe manner, in accordance with written policies and procedures governing program expectations, treatment goals, child and staff safety and security, and the child’s service plan.

"Body cavity search" means any examination of a resident's rectal or vaginal cavities except the performance of medical procedures by medical personnel.

“Boot Camp” means a facility specifically approved to operate with highly structured components including, but not limited to, military style drill and ceremony, physical labor, education and rigid discipline and no less than six months of intensive aftercare.

"Case record" or "Record" means up to date written or automated information relating to one resident. This information includes social and medical data, agreements, all correspondence relating to care of the resident, service plan with periodic revisions, aftercare plans and discharge summary, and any other data related to the resident.

"Chemical restraint" means use of any pharmacological substance for the sole purpose of controlling a resident's behavior in the absence of a diagnosed medical or psychiatric condition. Chemical restraint does not include the appropriate use of medications ordered by a licensed physician for treating medical or psychiatric conditions.

"Child" means any person legally defined as a child under state law. The term includes residents and other children coming in contact with the resident or facility (e.g. visitors). When the term is used, the requirement applies to every child at the facility regardless of whether the child has been admitted to the facility for care (e.g. staff/child ratios apply to all children present even though some may not be residents).

"Child placing agency" means any person licensed to place children in foster homes or adoptive homes or a local board of public welfare or social services authorized to place children in foster homes or adoptive homes.

"Child with special needs" means a child in need of particular services because the child has mental retardation, a developmental disability, mental illness, emotional disturbance, a substance abuse problem, is in need of special educational services, or requires security services.

"Child with a visual impairment" means one whose vision, after best correction, limits the child's ability to profit from a normal or unmodified educational or daily living setting.

"Client" means a person receiving treatment or other services from a program, facility, institution or other entity regulated under these standards whether that person is referred to as a patient, resident, student, consumer, recipient, family member, relative, or other term. When the term is used, the requirement applies to every client of the facility. Some facilities operate programs in addition to the children's residential facility; the requirement applies only to the clients of the children's residential facility and not to clients participating in other programs.

"Complaint" means an accusation against a licensed or certified facility regarding an alleged violation of standards or law.

"Compliance Plan" means violations documented by the regulatory authority and the facility's corrective action to the documented violations within a specified time frame.

"Confined in detention with a suspended commitment to the Department of Juvenile Justice" means that a court has committed the juvenile to the Department of Juvenile Justice but has suspended the commitment and ordered the juvenile confined in a local detention home for a period not to exceed six months as found in §16.1-284.1.B in the *Code of Virginia*.

"Confinement" means staff directed temporary removal of a resident from contact with people through placing the resident alone in his bedroom or other normally furnished rooms. Confinement does not include timeout or seclusion.

"Contraband" means any item prohibited by law or by the rules and regulations of the agency, or any item which conflicts with the program or safety and security of the facility or individual residents.

"Corporal punishment" means punishment administered through the intentional inflicting of pain or discomfort to the body through (i) actions such as, but not limited to, striking or hitting with any part of the body or with an implement; (ii) through pinching, pulling, or shaking; or (iii) through any similar action which normally inflicts pain or discomfort.

"Day" means calendar day unless the context clearly indicates otherwise.

"Detention home" or "secure detention" means a local, regional or state, publicly or privately operated secure custody facility which houses juveniles who are ordered detained pursuant to the *Code of Virginia*. The term does not include juvenile correctional centers.

"DMHMRSAS" means the Department of Mental Health, Mental Retardation and Substance Abuse Services.

"DOE" means the Department of Education.

"DSS" means the Department of Social Services.

"Emergency" means a sudden, generally unexpected occurrence or set of circumstances demanding immediate action. Emergency does not include regularly scheduled time off for permanent staff or other situations which should reasonably be anticipated.

"Emergency admission" means the sudden, unplanned, unexpected admittance of a child who needs immediate care except self-admittance to a temporary care facility or a court ordered placement.

"Goal" means expected results or conditions that usually involve a long period of time and which are written in behavioral terms in a statement of relatively broad scope. Goals provide guidance in establishing specific short-term objectives directed toward the attainment of the goal.

"Good character and reputation" means findings have been established and knowledgeable and objective people agree that the individual maintains business or

professional, family and community relationships which are characterized by honesty, fairness, truthfulness, and dependability, and has a history or pattern of behavior that demonstrates that the individual is suitable and able to care for, supervise, and protect children. Relatives by blood or marriage, and persons who are not knowledgeable of the individual, such as recent acquaintances, shall not be considered objective references.

"Human research" means any systematic investigation utilizing human subjects which may expose such human subjects to physical or psychological injury as a consequence of participation as subjects and which departs from the application of established and accepted therapeutic methods appropriate to meet the subjects' needs.

"Immediately" means directly without delay.

"Independent living program" means a program that is specifically approved to provide the opportunity for the residents to develop the skills necessary to live successfully on their own following completion of the program.

"Individualized service plan" means a written plan of action developed, and modified at intervals, to meet the needs of a specific resident. It specifies short and long-term goals, the methods and time frames for reaching the goals and the individuals responsible for carrying out a plan.

"Interdepartmental standards" means the standards for residential care which are common to the departments and which must be met by a children's residential facility in order to qualify for a license or certificate.

"Intrusive aversive therapy" means a formal behavior management technique designed to reduce or eliminate severely maladaptive, violent, or self-injurious behavior through the application of aversive stimuli contingent upon the exhibition of such behavior. Intrusive aversive therapy does not include verbal therapies, seclusion, physical or mechanical restraints used in conformity with the applicable human rights regulations promulgated pursuant to the *Code of Virginia*, or psychiatric medications which are used for purposes other than intrusive aversive therapy.

"Juvenile correctional center" means a secure custody facility operated by, or under contract with, the Department of Juvenile Justice to house and treat persons committed to the department.

"Legal guardian" means the natural or adoptive parents or other person, agency, or institution who has legal custody of a child.

"License or certificate" means a document verifying approval to operate a residential facility for children and which indicates the status of the facility regarding compliance with applicable state regulations.

"Licensee" means the person, corporation, partnership, association, or public agency to whom a license or certificate is issued and who is legally responsible for compliance with the standards and statutory requirements relating to the facility.

"Live in staff" means staff who are required to be on duty for a period of 24 consecutive hours or more during each work week.

"Living Unit" means the space in which a particular group of children in care of a residential facility reside. A living unit contains sleeping areas, bath and toilet facilities, and a living room or its equivalent for use by the residents of the unit. Depending upon its design, a building may contain one living unit or several separate living units.

"Mechanical restraint" means use of devices to restrict the movement of an individual or the movement or normal function of a portion of the individual's body, but does not include the appropriate use of those devices used to provide support for the achievement of functional body position or proper balance and those devices used for specific medical and surgical treatment or treatment for self-injurious behavior.

"Medication error" means that an error has been made in administering a medication to a resident when any of the following occur: (i) the wrong medication is given to a resident; (ii) the wrong resident is given the medication; (iii) the wrong dosage is given to a resident; (iv) medication is given to a resident at the wrong time or not at all; and (v) the proper method is not used to give the medication to a resident.

"Objective" means expected short-term results or conditions that must be met in order to attain a goal. Objectives are stated in measurable, behavioral terms and have a specified time for achievement.

"On duty" means that period of time during which a staff person is responsible for the supervision of one or more children.

"Parent" means a natural or adoptive parent or a surrogate parent appointed pursuant to DOE's regulations governing special education programs for students with disabilities. "Parent" means either parent unless the facility has been provided evidence that there is a legally binding instrument, a state law or a court order governing such matters as divorce, separation, or custody, which provides to the contrary.

"Pat down" means a thorough external body search of a clothed resident.

"Physical restraint" means the restraint of a resident's body movements by means of physical contact by staff members. Physical restraint does not include physical prompts or guidance used with individuals with diagnosed mental disabilities in the education or training of adaptive behaviors. (See definition of "adaptive behavior.")

"Placement" means an activity by any person which provides assistance to a parent or legal guardian in locating and effecting the movement of a child to a foster home, adoptive home, or to a residential facility for children.

"Premises" means the tracts of land on which any part of a residential facility for children is located and any buildings on such tracts of land.

"Program" means a combination of procedures or activities carried out in order to meet a specific goal or objective.

"Public funding" means funds paid by, on behalf of, or with the financial participation of the state Departments of Education; Juvenile Justice; Mental Health, Mental Retardation and Substance Abuse Services; or Social Services.

"Regulatory authority" means the department or state board that is responsible under the *Code of Virginia* for the licensure or certification of a residential facility for children.

"Resident" means a person admitted to a children's residential facility for supervision, care, training or treatment on a 24-hour per day basis. Resident includes children making preplacement visits to the facility. When the term is used, the

requirement applies only to individuals who have been admitted to the facility and those making preplacement visits.

"Residential facility for children" or "facility" means a publicly or privately operated facility, other than a private family home, where 24-hour per day care is provided to children separated from their legal guardians and which is required to be licensed or certified by the *Code of Virginia* except:

1. Any facility licensed by the Department of Social Services as a child-caring institution as of January 1, 1987, and which receives no public funds; and
2. Private psychiatric hospitals serving children that are licensed by the Department of Mental Health, Mental Retardation and Substance Abuse Services under Rules and Regulations for the Licensure of Facilities and Providers of Mental Health, Mental Retardation and Substance Abuse, 12 VAC 35-102-10 et. seq.

Group homes are included under this definition of residential facility for children. Group home means a community-based, home-like single dwelling, or its acceptable equivalent, other than the private home of the operator, and serves up to 12 residents.

"Respite care facility" means a facility that is specifically approved to provide short-term, periodic residential care to children accepted into its program in order to give the legal guardians temporary relief from responsibility for their direct care.

"Responsible adult" means an adult, who may or may not be a staff member, who has been delegated authority and responsibility to make decisions and to take actions to manage the safety and well-being of children. The term implies that the facility has reasonable grounds to believe that the responsible adult has sufficient knowledge, judgment and maturity to handle the situation.

"Rest day" means a period of not less than 32 consecutive hours during which a staff person has no responsibility to perform duties related to the facility. Two successive rest days means a period of not less than 48 consecutive hours during which a staff person has no responsibility to perform duties related to the facility. Each successive rest day immediately following the second shall consist of not less than 24 additional consecutive hours.

"Right" is something to which one has a legal or contractual claim.

"Routine admission" means the admittance of a child following evaluation of an application for admission, completion of preplacement activities, and execution of a written placement agreement.

"Rules of conduct" means a listing of rules or regulations which is maintained to inform residents and others about behaviors which are not permitted and the consequences applied when the behaviors occur.

"Sanitizing agent" means a laundry bleach with an active ingredient of 5.25% sodium hypochlorite.

"Seclusion" means placing a resident in a room with the door secured in any manner that prevents the resident from opening it.

"Secure custody facility" means a detention home or a juvenile correctional center.

"Self-admission" means the admittance of a child who seeks admission to a temporary care facility as permitted by Virginia statutory law without completing the requirements for "routine admission."

"Severe weather" means extreme environment or climate conditions which pose a threat to the health, safety or welfare of residents.

"Shall" means an obligation to act is imposed.

"Shall not" means an obligation not to act is imposed.

"Standard" means a statement which describes in measurable terms a required minimum performance level.

"Strategies" means a series of steps and methods used to meet goals and objectives.

"Strip search" means a visual inspection of the body of a resident when that resident's outer clothing or total clothing is removed and an inspection of the removed clothing. Strip searches are conducted for the detection of contraband.

“Student/intern” means an individual who simultaneously is affiliated with an educational institution and a residential facility. Every student/intern who is not an employee is either a volunteer or contractual service provider depending upon the relationship among the student/intern, educational institution, and facility.

“Systemic deficiency” means violations documented by the regulatory authority which demonstrate defects in the overall operation of the facility or one or more of its components.

“Target population” means individuals with a similar, specified characteristic or disability.

“Temporary care facility” means a facility or an emergency shelter specifically approved to provide a range of services, as needed, on an individual basis not to exceed 90 days except that this term does not include secure detention facilities.

“Therapy” means provision of direct diagnostic, preventive and treatment services where functioning is threatened or affected by social and psychological stress or health impairment.

“Timeout” means temporarily removing a resident and placing the resident alone in a special timeout room that is unfurnished or sparsely furnished and which contains few reinforcing environmental stimuli.

“Treatment” means any action which helps a person in the reduction of disability or discomfort, the amelioration of symptoms, undesirable conditions or changes in specific physical, mental, behavioral or social functioning.

“Variance” means temporary or permanent waiver of compliance with a standard or portion of a standard, or permission to meet the intent of the standard by a method other than that specified in the standard, when the regulatory authority, in its sole discretion, determines: (i) enforcement will create an undue hardship; (ii) the standard is not specifically required by statute or by the regulations of another government agency; and (iii) resident care will not be adversely affected. The denial of a request for a variance is appealable when it leads to the denial or revocation of a license or certificate.

"Wilderness camp" means a facility specifically approved to provide a primitive camping program with a nonpunitive environment and an experience curriculum for residents nine years of age and older who cannot presently function in home, school, and community. In lieu of or in addition to dormitories, cabins or barracks for housing residents, primitive campsites are used to integrate learning and therapy with real living needs and problems for which the resident can develop a sense of social responsibility and self worth.

22 VAC 42-10-20. Applications.

A. Initial applications

1. A completed application shall be submitted at least 60 days in advance of the planned opening date.

2. The applicant shall document funds or a line of credit sufficient to cover at least 90 days of operating expenses unless the facility is operated by a state or local government agency, board or commission.

3. A corporation, unincorporated organization or association, an individual or a partnership proposing to operate a facility shall submit with the initial application evidence of financial responsibility and sufficient funds to operate. This shall include:

a. A working budget showing projected revenue and expenses for the first year of operation; and

b. A balance sheet showing assets and liabilities.

4. Facilities operated by state or local government agencies, boards and commissions shall submit evidence of sufficient funds to operate including a working budget showing appropriated revenue and projected expenses for the coming year.

B. Renewal applications

A completed application for renewal of a facility's license or certificate shall be submitted within 30 days after being notified to submit a renewal application.

22 VAC 42-10-25 The investigation.

The regulatory authority or regulatory authorities will arrange and conduct an on-site inspection of the facility; a thorough review of the services; and investigate the character, reputation, status, and responsibility of the applicant.

22 VAC 42-10-30. Visitation of facilities.

Representatives of the departments shall make announced and unannounced visits during the effective dates of the license/certificate. The purpose of these visits is to monitor compliance with applicable standards.

22 VAC 42-10-35. General requirements.

A. The facility shall demonstrate full compliance with sufficient applicable standards to clearly demonstrate that its program and physical plant can provide reasonable safe and adequate care while approved plans of action to correct findings of noncompliance are being implemented and there are no noncompliances which pose an immediate and direct danger to residents.

B. Corporations sponsoring residential facilities for children shall maintain their corporate status in accordance with Virginia law. Corporations not organized and empowered solely to operate residential facilities for children shall provide for such operations in their charters.

C. The facility shall comply with the terms of its license or certificate.

D. A license or certificate is not transferable and automatically expires when there is a change of ownership or sponsorship.

E. The current license or certificate shall be posted at all times in a place conspicuous to the public.

F. A license or certificate shall not be issued to a facility when noncompliance poses an immediate danger to the resident's life, health or safety.

G. Intermediate sanctions authorized by statute may be imposed at the discretion of the regulatory authorities in addition to the sanctions specified in this chapter.

22 VAC 42-10-40. Licenses/certificates.

A. The Board of Juvenile Justice shall issue a certificate to each facility regulated by the board, indicating the facility's certification status when the facility is in compliance with these interdepartmental standards, other applicable regulations issued by the board, and applicable statutes. The certificate shall be effective for the period specified by the board unless it is revoked or surrendered sooner.

B. Facilities Regulated by DOE, DMHMRSAS, or DSS

1. A triennial license or certificate shall be issued when the facility (i) applies for renewal while holding an annual or triennial license or certificate and (ii) substantially meets or exceeds the requirements of the interdepartmental standards and other applicable regulations and statutes.

2. Annual Licenses/Certificates.

a. An annual license or certificate shall be issued when the facility:

(1) Applies for renewal while holding a conditional or provisional license or certificate and substantially meets or exceeds the requirements of the interdepartmental standards and other applicable regulations and statutes; or

(2) Applies for renewal while holding an annual or triennial license or certificate and one systemic deficiency has been identified during the licensure or certification period without the facility taking acceptable, documented corrective action;

b. An annual license or certificate may be issued to a facility whose sponsor requests establishment of a new facility to serve the same target population as that currently being served by the sponsor in facilities regulated through the Interdepartmental Regulatory Program.

c. An annual license or certificate may be renewed, but an annual license or certificate and any renewals thereof shall not exceed a period of 36 successive months for all annual licenses and renewals combined.

3. Provisional Licenses/Certificates

a. A provisional license or certificate shall be issued when the facility:

(1) Applies for renewal while holding an annual or triennial license or certificate, and during the licensure or certification period there have

been two or more occasions when systemic deficiencies have been identified without the facility taking acceptable, documented corrective action; or

(2) Applies for renewal while holding a conditional license or certificate and, during the licensure or certification period, has demonstrated that its programs and services do not substantially comply with the interdepartmental standards or other applicable regulations or statutes.

b. A provisional license or certificate may be renewed, but a provisional license or certificate and any renewals thereof shall not exceed a period of six successive months for all provisional licenses and renewals combined.

c. A facility holding a provisional license or certificate shall demonstrate progress toward compliance.

4. Conditional Licenses/Certificates

a. A conditional license or certificate shall be issued to a facility which demonstrates an acceptable level of compliance and is:

(1) Beginning initial operation and whose sponsor is not operating one or more additional facilities regulated through the Interdepartmental Regulatory Program, or

(2) Sponsored by a currently established Interdepartmental Regulatory Program sponsor who is beginning operation, at a new or currently regulated site, of a program serving a different target population than that being served by the sponsor.

b. A facility holding a conditional license or certificate shall demonstrate progress toward compliance.

c. A conditional license or certificate may be renewed, but a conditional license or certificate and any renewals thereof shall not exceed a period of six successive months for all conditional licenses and renewals combined.

22 VAC 42-10-50. Application fee.

There shall be no fee to the licensee for licensure or certification.

22 VAC 42-10-60. Modification.

A. The conditions of a license or certificate may be modified during the term of the license or certificate with respect to the capacity, residents' age range, facility location, or changes in the services.

B. The licensee shall submit a written report of any contemplated changes in operation which would affect the terms of the license or certificate or the continuing eligibility for licensure or certification.

C. A change shall not be implemented prior to approval by the regulatory authority. A determination will be made as to whether changes will be approved and the license or certificate modified accordingly or whether an application for a new license or certificate must be filed. The licensee will be notified in writing within 60 days following receipt of the request as to whether the modification is approved or a new license or certificate is required.

22 VAC 42-10-70. Denial.

A. An application for licensure or certification may be denied when the applicant:

1. Violates any provision of applicable laws or regulations made pursuant to such laws;
2. Has a founded disposition of child abuse or neglect after the appeal process has been completed;
3. Has been convicted of a crime listed in §§ 37.1-183.3 and 63.1-248.7:2 of the *Code of Virginia*;
4. Has made false statements on the application or misrepresentation of facts in the application process;
5. Has not demonstrated good character and reputation as determined through references, background investigations, driving records, and other application materials.

B. If denial of a license or certificate is recommended, the facility will be notified in writing of the deficiencies, the proposed action, the right to appeal, and the appeal process.

22 VAC 42-10-80. Revocation.

- A. The license or certificate may be revoked when the licensee:
1. Violates any provision of applicable laws or applicable regulations made pursuant to such laws;

2. Permits, aids or abets the commission of any illegal act in the regulated facility;
3. Engages in conduct or practices which are in violation of statutes related to abuse or neglect of children;
4. Deviates significantly from the program or services for which a license or certificate was issued without obtaining prior written approval from the regulatory authority or fails to correct such deviations within the specified time; or
5. Engages in a willful action or gross negligence which jeopardizes the care or protection of residents.

B. If revocation of a license or certificate is recommended, the facility will be notified in writing of the deficiencies, the proposed action, the right to appeal, and the appeal process .

22 VAC 42-10-90. Variances.

- A. Any request for a variance shall be submitted in writing to the regulatory authority.
- B. A variance shall not be effected prior to approval of the regulatory authority.

22 VAC 42-10-95. Investigation of complaints and allegations.

The four departments of Education; Juvenile Justice; Mental Health, Mental Retardation and Substance Abuse Service; and Social Services are responsible for complete and prompt investigation of all complaints and allegations at the facilities where they have regulatory authority, and for notification of the appropriate persons or agencies when removal of residents may be necessary. Suspected criminal violations shall be reported to the appropriate law enforcement authority.

PART II ADMINISTRATION

22 VAC 42-10-100. Governing body.

A. The facility shall clearly identify the corporation, association, partnership, individual, or public agency that is the licensee.

B. The licensee shall clearly identify any governing board, body, entity or person to whom it delegates the legal responsibilities and duties of the licensee.

22 VAC 42-10-110. Responsibilities of the licensee.

A. The licensee shall appoint a qualified chief administrative officer to whom it delegates in writing the authority and responsibility for administrative direction of the facility.

B. A qualified staff member shall be designated to assume responsibility for operation of the facility in the absence of the chief administrative officer.

C. The licensee shall develop a written statement of the philosophy and the objectives of the facility including a description of the target population and the program to be offered.

D. The licensee shall review, at least annually, the program of the facility in light of the population served and the objectives of the facility.

E. The licensee shall review, develop and implement programs and administrative changes in accord with the defined purpose of the facility.

22 VAC 42-10-120. Fiscal accountability.

A. Facilities operated by corporations, unincorporated organizations or associations, individuals or partnerships shall prepare, at the end of each fiscal year:

1. An operating statement showing revenue and expenses for the fiscal year just ended;
2. A working budget showing projected revenue and expenses for the next fiscal year that gives evidence that there are sufficient funds to operate; and

3. A balance sheet showing assets and liabilities for the fiscal year just ended.

B. There shall be a system of financial record keeping that shows a separation of the facility's accounts from all other records.

22 VAC 42-10-130. Insurance.

A. The facility shall maintain liability insurance covering the premises and the facility's operations.

B. The facility shall maintain liability insurance on vehicles operated by the facility.

C. The members of the governing body and staff who have been authorized to handle the facility's funds shall be bonded or otherwise indemnified.

22 VAC 42-10-140. Fund-raising.

The facility shall not use residents in its fund-raising activities without written permission of legal guardian and the permission of residents 14 years or older.

22 VAC 42-10-150. Weapons.

The facility shall have and implement a written policy governing the possession and use of firearms, pellet guns, air rifles, and other weapons on the facility's premises. The policy shall provide that no firearms, pellet guns, air rifles, or other weapons shall be permitted on the premises unless the weapons are:

1. In the possession of licensed security personnel,
2. Kept securely under lock and key, or
3. Used under the supervision of a responsible adult in accord with policies and procedures developed by the facility for the weapons' lawful and safe use.

22 VAC 42-10-160. Relationship to regulatory authority.

A. The facility shall submit or make available to the regulatory authority such reports and information as the regulatory authority may require to establish compliance with these interdepartmental standards and other applicable regulations and statutes.

B. The governing body or its official representative shall notify the regulatory authorities within five working days of:

1. Any change in administrative structure or newly hired chief administrative officer; and
2. Any pending changes in the program including, but not necessarily limited to: the setting where services are performed, the services provided, staff qualifications, organizational structure, target population, or capacity.

22 VAC 42-10-170. Facilities serving persons over the age of 17 years.

Facilities which are approved to serve persons over the age of 17 years shall comply with these interdepartmental standards for all occupants regardless of age, except when it is determined by the regulatory authorities that housing programs, services, and supervision for such persons are provided separately from those for the residents.

22 VAC 42-10-180. Health information.

A. Health information required by this section shall be maintained for each staff member and for each individual who resides in a building occupied by residents, including each person who is not a staff member or resident of the facility.

B. Initial Screening for Tuberculosis

1. Each individual shall obtain an evaluation documenting the absence of tuberculosis in a communicable form no earlier than 30 days before or no later than seven days after employment or contact with residents.
2. Each individual shall annually submit the results of a Mantoux tuberculin skin test, chest x-ray or bacteriological examination, as deemed appropriate by the examining physician, documenting that the individual is free of tuberculosis in a communicable form.

3. The documentation shall include all information contained on a "Report of Tuberculosis Screening" form recommended by the Virginia Department of Health.

4. An evaluation shall not be required for an individual who (i) has separated from employment with a facility licensed or certified by the Commonwealth of Virginia, (ii) has a break in service of six months or less, and (iii) submits the original statement of tuberculosis screening to his new employer.

C. Subsequent Evaluations for Tuberculosis

1. An individual who comes in contact with a known case of infectious tuberculosis shall be screened as determined appropriate based on consultation with the local health department.

2. An individual who develops chronic respiratory symptoms of three weeks duration shall be evaluated immediately for the presence of infectious tuberculosis.

D. An individual suspected of having infectious tuberculosis shall not be permitted to return to work or have contact with staff or residents until a physician has determined that the individual is free of infectious tuberculosis.

E. The facility shall report any active case of tuberculosis developed by a staff member to the local health department.

22 VAC 42-10-190. Physical or mental health of personnel.

A. The licensee or the regulatory authority may require a report of examination by a licensed physician or mental health professional when there are indications that an individual's physical, mental or emotional health may jeopardize the care of residents.

B. An individual who is determined by a licensed physician or mental health professional, to show an indication of a physical or mental condition which may jeopardize the safety of residents or which would prevent the performance of duties shall be removed immediately from contact with residents and food served to residents until the condition is cleared as evidenced by a signed statement from the physician or mental health professional.

22 VAC 42-10-200. Qualifications.

A. Standards establishing minimum position qualifications shall be applicable to all facilities. In lieu of the minimum position qualifications contained in this chapter, facilities subject to (i) the rules and regulations of the Virginia Department of Personnel and Training, or (ii) the rules and regulations of a local government personnel office may develop written minimum entry level qualifications in accord with the rules and regulations of the supervising personnel authority.

B. A person who assumes or is designated to assume the responsibilities of a position or any combination of positions described in these standards shall:

1. Meet the qualifications of the position or positions;
2. Fully comply with all applicable standards for each function; and
3. Demonstrate a working knowledge of the policies and procedures that are applicable to his specific position or positions.

C. When services or consultation are obtained on a contractual basis they shall be provided by professionally qualified personnel.

22 VAC 42-10-210. Job descriptions.

A. There shall be a written job description for each position which, at a minimum, includes the:

1. Job title;
2. Duties and responsibilities of the incumbent;
3. Job title of the immediate supervisor; and
4. Minimum knowledge, skills and abilities required for entry level performance of the job.

B. A copy of the job description shall be given to each person assigned to a position at the time of employment or assignment.

22 VAC 42-10-220. Written personnel policies and procedures.

A. The licensee shall approve written personnel policies and make its written personnel policies readily accessible to each staff member.

B. The facility shall develop and implement written policies and procedures to assure that persons employed in or designated to assume the responsibilities of each position possess the knowledge, skills and abilities specified in the job description for the position.

C. Written policies and procedures related to child abuse and neglect shall be distributed to all staff members. These shall include procedures for:

1. Handling accusations against staff; and
2. Promptly referring, consistent with requirements of the Code of Virginia, suspected cases of child abuse and neglect to the local child protective services unit; and
3. Cooperating with the unit during any investigation.

22 VAC 42-10-230. Personnel records.

A. Separate up-to-date written or automated personnel records shall be maintained for each employee and volunteer and contractual service provider for whom background investigations are required by Virginia statute. Content of personnel records of volunteers and contractual service providers may be limited to documentation of compliance with requirements of Virginia laws regarding child protective services and criminal history background investigations.

B. The records of each employee shall include:

1. A completed employment application form or other written material providing the individual's name, address, phone number, and social security number;
2. Educational background and employment history;
3. Written references or notations of oral references;
4. Reports of required health examinations;
5. Annual performance evaluations;
6. Date of employment and separation; and
7. Documentation of compliance with requirements of Virginia laws regarding child protective services and criminal history background investigations.

C. Personnel records shall be retained in their entirety for three years after separation from employment, contractual service, or volunteer service.

22 VAC 42-10-240. Staff development.

A. New employees, relief staff, volunteers and students/interns shall within one calendar month of employment be given orientation and training regarding the objectives and philosophy of the facility, practices of confidentiality, other policies and procedures that are applicable to their positions, and their duties and responsibilities.

B. The facility shall develop a staff training plan that addresses the knowledge, skills, and abilities that employees need to perform their job.

C. Regular supervision of staff shall not be the only method of staff development

D. All personnel shall receive documented training and other staff development activities as necessary to enable them to adequately perform their job responsibilities.

22 VAC 42-10-250. Supervision.

Regular supervision of staff, volunteers, and students/interns shall be provided.

22 VAC 42-10-260. The chief administrative officer.

A chief administrative officer appointed after July 1, 2000 shall have at least:

1. A baccalaureate degree from an accredited college or university in the field of human services, institutional management, social work, education or other allied discipline; or

2. A baccalaureate degree from an accredited college or university with two years of successful work experience with children in the field of institutional management, social work, education or other allied profession.

22 VAC 42-10-270. Program direction.

A. The facility's program shall be directed by one or more qualified persons.

B. Persons directing programs shall be responsible for the development and implementation of the programs and services offered by the facility.

C. Persons directing programs of a facility licensed or certified to care for 13 or more residents shall be full-time, qualified staff members.

D. A person appointed after July 1, 1981, to direct programs shall have:

1. A baccalaureate degree from an accredited college or university with two years of successful work experience with children in the field of institutional management, social work, education or other allied discipline;
2. A graduate degree from an accredited college or university in a profession related to child care and development; or
3. A license or certificate issued by the Commonwealth of Virginia as a drug or alcoholism counselor/worker if the facility's purpose is to treat drug abuse or alcoholism.

22 VAC 42-10-280. Child care staff.

A. A designated staff member shall have responsibility for the development of the daily living program within each child care unit.

B. A designated staff member shall be responsible for the coordination of all services offered to each resident.

C. A designated staff member shall have responsibility for the orientation, training and supervision of child care workers.

D. An individual supervising child care workers shall have:

1. A baccalaureate degree from an accredited college or university and two years experience in the human services field, at least one of which shall have been in a residential facility for children; or
2. A high school diploma or a General Education Development Certificate (G.E.D.) and a minimum of five years experience in the human service field with at least two years in a residential facility for children.

E. The child care worker shall have direct responsibility for guidance and supervision of the children to whom he is assigned including:

1. Overseeing physical care;
2. Development of acceptable habits and attitudes;

3. Management of resident behavior; and
4. Helping to meet the goals and objectives of any required service plan.

F. A child care worker shall:

1. Be a high school graduate or have a General Education Development Certificate (G.E.D.); and
2. Have demonstrated, through previous life and work experiences, an ability to maintain a stable environment and to provide guidance to children in the age range for which the child care worker will be responsible.

G. An individual hired, promoted, demoted, or transferred to a child care worker's position after July 1, 2000 shall be at least 18 years old.

22 VAC 42-10-290. Relief staff.

Qualified relief staff shall be employed as necessary to maintain required staff/child ratios at all times and to maintain a structured program of care in accordance with 22 VAC 42-10-690.

22 VAC 42-10-300. Medical staff.

A. Services of a licensed physician shall be available for treatment of residents as needed.

B. Each nurse shall hold a current nursing license issued by the Commonwealth of Virginia.

C. At all times that children are present there shall be at least one responsible adult on the premises who has received within the past three years a basic certificate in standard first aid issued by the American Red Cross or other recognized authority for each 16 children or portion thereof on the premises. Each nurse on the premises who holds a current nursing license issued by the Commonwealth of Virginia may be considered to hold a current certificate in first aid.

D. At all times that children are present there shall be at least one responsible adult on the premises who has a current certificate in cardiopulmonary resuscitation

issued by the American Red Cross or other recognized authority for each 16 children or portion thereof on the premises.

22 VAC 42-10-310. Volunteers and students/interns.

- A. A facility that uses volunteers or students/interns shall develop and implement written policies and procedures governing their selection and use.
- B. The facility shall not be dependent upon use of volunteers or students/interns to provide basic services.
- C. Responsibilities of volunteers and students/interns shall be clearly defined in writing.
- D. Volunteers and students/interns shall have qualifications appropriate to the services they render.
- E. Volunteers and students/interns shall comply with all regulations governing confidential treatment of personal information.
- F. Volunteers and students/interns shall be informed of liability protection, if any, provided by the facility.

22 VAC 42-10-320. Support functions.

- A. Child care workers and other staff responsible for child care may assume the duties of non-child care personnel only when these duties do not interfere with their child care responsibilities.
- B. Residents shall not be solely responsible for support functions, including but not necessarily limited to, food service, maintenance of building and grounds, and housekeeping.

PART III RESIDENTIAL ENVIRONMENT

22 VAC 42-10-330. Buildings, inspections and building plans.

A. All buildings and building related equipment shall be inspected and approved by the local building official. Approval shall be documented by a certificate of occupancy indicating that the building is classified for its proposed use.

B. The facility shall document at the time of its original application and annually thereafter that buildings and equipment are maintained in accordance with the Virginia Statewide Fire Prevention Code (13 VAC 5-51-10 et.seq.).

C. At the time of the original application and at least annually thereafter the buildings shall be inspected and approved by state or local health authorities, whose inspection and approval shall include:

1. General sanitation;
2. The sewage disposal system;
3. The water supply;
4. Food service operations; and
5. Swimming pools.

D. The buildings shall provide adequate space and shall be of a design that is suitable to house the programs and services provided.

E. Building plans and specifications for new construction, change in use of existing buildings, and any structural modifications or additions to existing buildings shall be submitted to and approved by the licensure or certification authority and by other appropriate regulatory authorities.

22 VAC 42-10-335. Heating systems, ventilation and cooling systems.

A. Heat shall be evenly distributed in all rooms occupied by the residents such that a temperature no less than 65°F is maintained, unless otherwise mandated by state or federal authorities.

B. Natural or mechanical ventilation to the outside shall be provided in all rooms used by residents.

C. Air conditioning or mechanical ventilating systems, such as electric fans, shall be provided in all rooms occupied by residents when the temperature in those rooms exceeds 85°F.

22 VAC 42-10-340. Lighting.

- A. Artificial lighting shall be by electricity.
- B. All areas within buildings shall be lighted for safety.
- C. Lighting in halls and bathrooms shall be adequate and shall be continuous at night.
- D. Lighting shall be sufficient for the activities being performed.
- E. Operable flashlights or battery powered lanterns shall be available for each staff member on the premises between dusk and dawn to use in emergencies.
- F. Outside entrances and parking areas shall be lighted for protection against injuries and intruders.

22 VAC 42-10-350. Plumbing.

- A. Plumbing shall be maintained in good operational condition.
- B. An adequate supply of hot and cold running water shall be available at all times.
- C. Precautions shall be taken to prevent scalding from running water.
- D. Mixing faucets shall be installed in all newly constructed buildings and when making structural modifications or additions to existing buildings.

22 VAC 42-10-360. Toilet facilities.

A. There shall be at least one toilet, one hand basin and one shower or bathtub in each living unit.

B. There shall be at least one bathroom equipped with a bathtub in each facility.

C. There shall be at least one toilet, one hand basin and one shower or tub for every eight residents.

D. There shall be one toilet, one hand basin and one shower or tub for every four residents in any building constructed or structurally modified after July 1, 1981 except secure detention facilities.

E. The maximum number of staff members on duty in the living unit shall be counted in determining the required number of toilets and hand basins when a separate bathroom is not provided for staff.

F. There shall be at least one mirror securely fastened to the wall at a height appropriate for use in each room where hand basins are located except in security rooms in hospitals and secure custody facilities.

22 VAC 42-10-370. Personal necessities.

A. An adequate supply of personal necessities shall be available to the residents at all times for purposes of personal hygiene and grooming. Personal necessities include, but are not necessarily limited to, soap, toilet tissue, toothpaste, individual tooth brushes, individual combs and shaving equipment.

B. Clean, individual washcloths and towels shall be available once each week and more often if needed.

C. When residents are incontinent or not toilet trained:
1. Provision shall be made for sponging, diapering or other similar care on a nonabsorbent changing surface which shall be cleaned with warm soapy water after each use.

2. A covered diaper pail, or its equivalent, with leak proof disposable liners shall be available. If both cloth and disposable diapers are used there shall be a diaper pail for each.

3. Adapter seats and toilet chairs shall be cleaned immediately after each use with warm soapy water;

4. Staff shall thoroughly wash their hands with warm soapy water immediately after assisting a child or themselves with toileting.

22 VAC 42-10-380. Sleeping areas.

A. When residents are four years of age or older, boys and girls shall have separate sleeping areas.

B. No more than four children may share a bedroom or sleeping area except as provided by other applicable state regulations governing juvenile correctional centers and boot camps.

C. Children who use wheelchairs, crutches, canes or other mechanical devices for assistance in walking shall be provided with a planned, personalized means of effective egress for use in emergencies.

D. Beds shall be at least three feet apart at the head, foot and sides and double-decker beds shall be at least five feet apart at the head, foot and sides.

E. Sleeping quarters in facilities licensed by the DSS prior to July 1, 1981 and facilities established, constructed or structurally modified after July 1, 1981, except for primitive campsites, shall have:

1. At least 80 square feet of floor area in a bedroom accommodating one person;

2. At least 60 square feet of floor area per person in rooms accommodating two or more persons; and

3. Ceilings at least 7½ feet in height.

F. Each child shall have a separate, clean, comfortable bed equipped with mattress, pillow, blankets, bed linens, and, if needed, a waterproof mattress cover.

G. Bed linens shall be changed at least every seven days and more often, if needed.

H. Mattresses and pillows shall be clean.

I. Mattresses shall be fire retardant as evidenced by documentation from the manufacturer.

J. Cribs shall be provided for residents under two years of age.

K. Each resident shall be assigned drawer space and closet space, or their equivalent, which is accessible to the sleeping area for storage of clothing and personal belongings except in secure custody facilities.

L. The sleeping areas' environment shall be conducive to sleep and rest.

22 VAC 42-10-385. Smoking prohibition.

Smoking shall be prohibited in living areas and in areas where residents participate in programs.

22 VAC 42-10-390. Residents' privacy.

A. When bathrooms are not designated for individual use, except in secure custody facilities:

1. Each toilet shall be enclosed for privacy, and
2. Bathtubs and showers shall provide visual privacy for bathing by use of enclosures, curtains or other appropriate means.

B. Windows in bathrooms, sleeping areas, and dressing areas shall provide for privacy.

C. Every sleeping area shall have a door that may be closed for privacy or quiet and this door shall be readily opened in case of fire or other emergency. In secure custody facilities, the door may be equipped with an observation window.

22 VAC 42-10-400. Living rooms and indoor recreation space.

A. Each living unit shall have a living room, or other area for informal use, for relaxation and entertainment. The furnishings shall provide a comfortable, home-like environment that is appropriate to the ages of the residents.

B. Facilities licensed or certified to care for 13 or more residents shall have indoor recreation space that contains recreation equipment appropriate to the ages and interests of the residents. The indoor recreation space shall be distinct from the living room, but recreation space is not required in every living unit.

22 VAC 42-10-410. Study space.

A. Facilities serving a school age population shall provide study space. Study space may be assigned in areas used interchangeably for other purposes.

B. Study space shall be well lighted, quiet and equipped with tables or desks and chairs.

22 VAC 42-10-420. Kitchen and dining areas.

A. Meals shall be served in areas equipped with sturdy tables and benches or chairs which are size and age appropriate for the residents.

B. Adequate kitchen facilities and equipment shall be provided for preparation and serving of meals.

C. Walk-in refrigerators, freezers, and other enclosures shall be equipped to permit emergency exits.

22 VAC 42-10-430. Laundry areas.

Appropriate space and equipment in good repair shall be provided if laundry is done at the facility.

22 VAC 42-10-440. Storage.

Space shall be provided for safe storage of items such as first aid equipment, household supplies, recreational equipment, luggage, out-of-season clothing, and other materials.

22 VAC 42-10-450. Staff quarters.

A. A separate, private bedroom shall be provided for staff and their families when a staff member is on duty for 24 consecutive hours or more.

B. A separate private bathroom shall be provided for staff and their families when there are more than four persons in the living unit and the staff person is on duty for 24 consecutive hours or more.

C. Staff and members of their families shall not share bedrooms with residents.

D. When 13 or more residents reside in a living unit, a separate, private living room shall be provided for child care staff who are required to be in the living unit for 24 hours or more, except at primitive campsites.

E. When child care staff are on duty for less than 24 hours, a bed shall be provided for use by each staff member on duty during night hours unless the staff member is required to stay awake.

22 VAC 42-10-460. Office space.

Space shall be provided for administrative activities including, as appropriate to the program, confidential conversations and provision for storage of records and materials.

22 VAC 42-10-470. Buildings and grounds.

A. The facility's grounds shall be safe, properly maintained, and free of clutter and rubbish. The grounds include, but are not limited to, all areas where residents, staff, and visitors may reasonably be expected to have access, including roads, pavements,

parking lots, open areas, stairways, railings, and potentially hazardous or dangerous areas.

B. The interior and exterior of all buildings shall be safe, properly maintained, clean and in good working order. This includes, but is not limited to, required locks, mechanical devices, indoor and outdoor equipment, and furnishings.

C. Outdoor recreation space shall be available and appropriately equipped for the residents' use.

22 VAC 42-10-480. Equipment and furnishings.

A. All furnishings and equipment shall be safe, clean, and suitable to the ages and number of residents.

B. There shall be at least one continuously operable, non-pay telephone accessible to staff in each building in which children sleep or participate in programs.

22 VAC 42-10-490. Housekeeping and maintenance.

A. All buildings shall be well ventilated and free of stale, musty or foul odors.

B. Adequate provision shall be made for the collection and legal disposal of garbage and waste materials.

C. Buildings shall be kept free of flies, roaches, rats and other vermin.

D. All linens shall be kept clean and in good repair.

E. A sanitizing agent shall be used in the laundering of bed, bath, table and kitchen linens.

22 VAC 42-10-500. Farm and domestic animals.

A. Horses and other animals maintained on the premises shall be quartered at a reasonable distance from sleeping, living, eating and food preparation areas.

B. Stables and corrals shall be located so as to prevent contamination of water supplies.

C. Manure shall be removed from stalls and corrals as often as necessary to prevent fly problems.

D. Animals maintained on the premises shall be tested, inoculated and licensed as required by law.

E. The premises shall be kept free of stray domestic animals.

F. Pets shall be provided with clean quarters and adequate food and water.

22 VAC 42-10-510. Campsites.

A. This section is applicable exclusively to the residential environment and equipment at wilderness camps. Permanent buildings and other aspects of the residential environment at a wilderness camp shall comply with all other standards in this part.

B. Campsites shall be well-drained and free from depressions in which water may stand.

C. Natural sink-holes and other surface collectors of water shall be either drained or filled to prevent the breeding of mosquitoes.

D. Campsites shall not be located in proximity to conditions that create or are likely to create offensive odors, flies, noise, traffic, or other hazards.

E. Campsites shall be free from debris, noxious plants, and uncontrolled weeds or brush.

F. Drinking water used at campsites and during activities away from permanent campsites shall be from a source known to be free of coliform organisms or shall be treated before use in a manner approved by the Virginia Department of Health.

G. An adequate supply of water, under pressure where possible, shall be provided at the cooking area for hand washing, dish washing, food preparation and drinking.

H. Food shall be obtained from approved sources and shall be properly identified.

I. Milk products shall be pasteurized.

J. Food and drink shall be maintained and stored using methods that prevent contamination.

K. Utensils shall be used to minimize the handling of food.

L. Fruits and vegetables shall be properly washed prior to use.

M. Food and food containers shall be covered and stored (i) off the ground and (ii) on clean surfaces. Refrigerated food shall be covered.

N. Sugar and other condiments shall be packaged or served in closed dispensers.

O. Poisonous and toxic materials shall be properly used, properly identified and stored separately from food.

P. Persons with wounds or communicable diseases shall be prohibited from handling food.

Q. Persons who handle food and eating utensils for the group shall maintain personal cleanliness, keep their hands clean at all times, and thoroughly wash their hands with soap and water after each visit to the toilet.

R. Food contact surfaces shall be kept clean.

S. All eating utensils and cookware shall be properly stored.

T. Disposable and single use dishes, receptacles and utensils shall be properly stored, handled and used only once.

U. Eating utensils shall not be stored with food or other materials and substances.

V. Use of a common drinking cup shall be prohibited.

W. Only food which can be maintained in wholesome condition with the available equipment shall be used.

X. Ice which comes in contact with food or drink shall be obtained from an approved source and shall be made, delivered, stored, handled and dispensed in a sanitary manner and shall be free from contamination.

Y. When ice and ice chests are used, meats and other perishable foods shall not be stored for more than 24 hours.

Z. Eating utensils and cookware shall be washed after each use.

AA. No dish, receptacle or utensil used in handling food for human consumption shall be used or kept for use if chipped, cracked, broken, damaged or constructed in a manner that prevents proper cleaning and sanitizing.

BB. Solid wastes which are generated shall be disposed of at an approved sanitary landfill or similar disposal facility. Where sanitary landfill facilities are not available, solid wastes shall be disposed of daily by burial under at least two feet of compacted earth cover in a location which is not subject to flooding.

CC. Sanitary-type privies or portable toilets shall be provided where a water supply is not available. Such facilities shall be constructed as required by the Virginia Department of Health.

DD. All facilities provided for excreta and liquid waste disposal shall be maintained and operated in a sanitary manner to eliminate possible health or pollution hazards, to prevent access of flies and animals to their contents, and to prevent fly breeding.

EE. Privies shall be located at least 150 feet from streams, lakes, and wells and at least 75 feet from sleeping and housing facilities.

FF. Campsites which do not have approved permanent toilet facilities shall have a minimum ratio of one toilet seat for every 15 persons.

GG. If chemical control is used to supplement good sanitation practices, proper pesticides and other chemicals shall be used safely and in strict accordance with label instructions.

HH. Bedding shall be clean, dry, sanitary, and in good repair.

II. Bedding shall be adequate to ensure protection and comfort in cold weather.

JJ. Sleeping bags, if used, shall be fiberfill and rated for 0° F.

KK. Linens shall be changed as often as required for cleanliness and sanitation but not less frequently than once a week.

LL. Bed wetters shall have their bedding changed or dried as often as it is wet.

MM. Mattresses, if used, shall be clean.

NN. Mattresses shall be fire retardant as evidenced by documentation from the manufacturer.

OO. A mattress cover shall be provided for each mattress.

PP. Sleeping areas shall be protected by screening or other means to prevent admittance of flies and mosquitos.

QQ. A separate bed, bunk or cot shall be made available for each person.

RR. Each resident shall be provided with an adequate supply of clean clothing which is suitable for outdoor living and is appropriate to the geographic location and season.

SS. Sturdy, water-resistant, outdoor footwear shall be provided for each resident.

TT. Each resident shall have adequate personal storage area.

UU. Fire extinguishers of a 2A 10BC rating shall be maintained so that it is never necessary to travel more than 75 feet to a fire extinguisher from combustion-type heating devices, campfires or other source of combustion.

VV. Artificial lighting shall be provided in a safe manner.

WW. All areas of the campsite shall be lighted for safety when occupied by residents.

XX. Staff of the same sex may share a sleeping area with the residents.

YY. A telephone or other means of communication is required at each area where residents sleep or participate in programs.

PART IV PROGRAMS AND SERVICES

22 VAC 42-10-520. Acceptance of children.

Children shall be accepted only by court order or by written placement agreement with legal guardians. This requirement does not apply to temporary care facilities when self-admission is made according to Virginia law.

22 VAC 42-10-530. Admission procedures.

- A. The facility shall have written criteria for admission which shall include:
 - 1. A description of the population to be served;
 - 2. A description of the types of services offered; and
 - 3. Intake and admission procedures.
- B. The facility's criteria for admission shall be accessible to prospective residents, legal guardians, and placing agencies.
- C. The facility shall accept and serve only those children whose needs are compatible with the services provided through the facility unless a child's admission is ordered by a court of competent jurisdiction.
- D. Acceptance of a child as eligible for respite care by a facility approved to provide residential respite care is considered admission to the facility. Each individual period of respite care is not considered a separate admission.

22 VAC 42-10-540. Maintenance of residents' records.

- A. A separate written or automated case record shall be maintained for each resident. In addition, all correspondence and documents received by the facility relating to the care of that resident should be maintained as part of the case record.
- B. Each case record shall be kept up to date and in a uniform manner.
- C. The facility shall make information available only to persons/organizations legally authorized to have access to the information under federal and state laws.

D. The facility shall have and implement written policies and procedures to protect the confidentiality of records. The policy shall address acquiring information, access, duplication, and dissemination of any portion of the records. The policy shall specify what information is available to the resident.

E. Records shall be kept in areas which are accessible to authorized staff and protected from unauthorized access, fire, and flood.

1. When not in use written records shall be stored in a metal file cabinet or other metal compartment.

2. Facility staff shall assure the confidentiality of the residents' records by placing them in a locked cabinet or drawer or in a locked room when the staff member is not present.

F. All portions of each resident's written records shall be consolidated prior to the resident's discharge.

G. Written and automated records shall be retained in their entirety for a minimum of three years after the date of discharge unless otherwise specified by state or federal requirements.

H. The face sheet shall be retained permanently unless otherwise specified by state or federal requirements.

I. The facility shall have a written policy to provide for:

1. The preservation of records in the event the facility ceases operation,
2. Notifying the regulatory authority of the preservation plan, and
3. Retention of and access to automated records.

J. Facilities using automated records shall develop and implement procedures for backing up records.

22 VAC 42-10-550. Interstate compact on the placement of children.

A. Documentation of the prior approval of the administrator of the Interstate Compact on the Placement of Children, Virginia Department of Social Services, shall be retained in the record of each resident admitted from outside Virginia. The requirements

of this section shall not apply to a facility providing documentation that the administrator of the interstate compact has determined the facility is statutorily exempt from the compact's provisions.

B. No later than 10 days after discharge the resident's record shall contain documentation that the administrator of the Interstate Compact on the Placement of Children was notified of the discharge.

22 VAC 42-10-560. Participation of residents in human research.

The facility shall:

1. Implement a written policy stating that residents will not be used as subjects of human research; or
2. Document approval, as required by the appropriate regulatory authorities, for each research project using residents as subjects of human research.

22 VAC 42-10-570. Emergency and self-admissions.

Facilities accepting emergency or self-admissions shall:

1. Have and implement written policies and procedures governing such admissions which shall include procedures to make and document prompt efforts to obtain (i) a written placement agreement signed by the legal guardian or (ii) the order of a court of competent jurisdiction;
2. Place in each resident's record the order of a court of competent jurisdiction, a written request for care, or documentation of an oral request for care; and
3. Have and implement written policies and procedures for obtaining (i) a written placement agreement signed by the legal guardian or (ii) the order of a court of competent jurisdiction.

22 VAC 42-10-580. Application for admission.

A. Admission, other than an emergency or diagnostic admission, shall be based on evaluation of an application for admission. The requirements of this section do not apply to (i) temporary care facilities, (ii) court ordered placements, or (iii) transfer of a resident between residential facilities located in Virginia and operated by the same sponsor.

B. Facilities accepting routine admissions shall develop, and fully complete prior to acceptance for care, an application for admission which is designed to compile information necessary to determine:

1. The physical needs of the prospective resident;
2. The educational needs of the prospective resident;
3. The mental health, emotional and psychological needs of the prospective resident;
4. The physical health needs of the prospective resident;
5. The protection needs of the prospective resident;
6. The suitability of the prospective resident's admission;
7. Whether the prospective resident's admission would pose any significant risk to (i) the prospective resident or (ii) the facility's residents or staff; and
8. Information necessary to develop a service plan.

C. The resident's record shall contain a completed application for admission at the time of a routine admission or within 30 days after an emergency admission.

22 VAC 42-10-590. Preplacement activities documentation.

At the time of each routine admission, the facility shall document:

1. A preplacement visit by the resident accompanied by a family member, agency representative or other responsible adult;
2. Preparation through sharing information with the family or placing agency and with the resident about the facility, the staff, the population served, activities and criteria for admission; and
3. Written confirmation of the admission decision to the legal guardian and to the placing agency.

22 VAC 42-10-600. Written placement agreement.

A. The facility, except a facility which accepts admission only upon receipt of the order of a court of competent jurisdiction, shall develop a written placement agreement which:

1. Authorizes the resident's placement;
2. Addresses acquisition of and consent for any medical treatment needed by the resident;
3. Addresses the rights and responsibilities of each party involved;

4. Addresses financial responsibility for the placement;
5. Addresses resident absences from the facility; and
6. Addresses visitation with the resident.

B. Each resident's record shall contain, prior to a routine admission, a completed placement agreement signed by the legal guardian or placing agency, except as permitted for temporary emergency shelters pursuant to § 63.1-204 of the *Code of Virginia*.

C. The record of each person admitted based on a court order shall contain a copy of the court order.

22 VAC 42-10-610. Face sheet.

A. At the time of admission, each resident's record shall include a completed face sheet which contains (i) the resident's full name, last known residence, birth date, birthplace, gender, race, social security number, religious preference, and admission date; and (ii) names, addresses, and telephone numbers of the resident's legal guardians, placing agency, and emergency contacts.

B. Missing information shall be obtained promptly and information shall be updated when changes occur.

C. The face sheet for pregnant teens shall also include the expected date of delivery and the name of the hospital to provide delivery services to the resident.

D. The face sheet for infants shall also include the type of delivery, weight and length at birth, any medications or allergies, the current formula for the infant and the name and address, if known, of the biological mother and father, unless the infant has been released for adoption.

E. At the time of discharge the following information shall be added to the face sheet:

1. Date of discharge;
2. Reason for discharge;
3. Names and addresses of persons to whom the resident was discharged; and

4. Forwarding address of the resident, if known.

22 VAC 42-10-620. Initial objectives and strategies.

Within three days following admission, individualized objectives and strategies for the first 30 days shall be developed, distributed to affected staff and the resident, and placed in the resident's record. The objectives and strategies shall be based on the reasons for admitting the resident. The requirements of this section do not apply to secure detention facilities, except when a juvenile is confined in detention with a suspended commitment to the Department of Juvenile Justice.

22 VAC 42-10-630. Service plan.

A. An individualized service plan shall be developed and placed in the resident's record within 30 days following admission and implemented immediately thereafter.

B. Individualized service plans shall describe the:

1. Strengths and needs of the resident;
2. Resident's current level of functioning;
3. Goals, objectives and strategies established for the resident;
4. Projected family involvement;
5. Projected date for accomplishing each objective; and
6. Status of discharge planning except that this requirement shall not apply to a facility which discharges only upon receipt of the order of a court of competent jurisdiction.

C. Each plan shall be updated quarterly, or more frequently if necessary, and shall report the:

1. Resident's progress toward meeting the plan's objectives;
2. Family's involvement;
3. Continuing needs of the resident;
4. Resident's progress towards discharge;
5. Status of discharge planning; and
6. Revisions, if any, to the plan.

D. Each plan and update shall include the date it was developed and the signature of the person who developed it.

E. Staff responsible for daily implementation of the resident's individualized service plan shall be able to describe the resident's behavior in terms of the objectives in the plan.

F. The following parties shall participate, unless clearly inappropriate, in developing the individualized service plan and in updating the plan quarterly, or more frequently, if necessary:

1. The resident;
2. The resident's family, legal guardian, or legally authorized representative;
3. The placing agency; and
4. Facility staff.

G. The initial individualized service plan, each update, and all other revisions shall be distributed to the parties who participated in development of the plan. Documentation of distribution shall be included in the resident's record.

H. The requirements of this section do not apply to secure detention facilities except when a juvenile is confined in detention with a suspended commitment to the Department of Juvenile Justice.

22 VAC 42-10-640. Resident transfer between residential facilities located in Virginia and operated by the same sponsor.

A. Except when transfer is ordered by a court of competent jurisdiction, the receiving facility shall document at the time of transfer:

1. Preparation through sharing information with the resident, the family and the placing agency about the facility, the staff, the population served, activities and criteria for admission;
2. Written confirmation of the admission decision to the legal guardian and to the placing agency;
3. Receipt from the sending facility of a written summary of the resident's progress while at the facility and the resident's current strengths and needs; and
4. Receipt of the resident's record.

B. The sending facility shall retain a copy of the face sheet and a written summary of the child's progress while at the facility and shall document the date of transfer.

22 VAC 42-10-650. Discharge.

A. The facility shall have written criteria for discharge that shall include:

1. Criteria for a resident's completing the program which are consistent with the facility's programs and services;
2. Conditions under which a resident may be discharged before completing the program; and
3. Procedures for assisting placing agencies in placing the residents should the facility cease operation.

B. The facility's criteria for discharge shall be accessible to prospective residents, legal guardians, and placing agencies.

C. The record of each resident discharged upon receipt of the order of a court of competent jurisdiction shall contain a copy of the court order.

D. Residents shall be discharged only to the legal guardian or legally authorized representative.

E. A facility approved to provide residential respite care shall discharge a resident when the legal guardian no longer intends to use the facility's services.

F. Information concerning current medications, need for continuing therapeutic interventions, educational status, and other items important to the resident's continuing care shall be made available to or provided to the legal guardian or legally authorized representative.

G. Unless discharge is ordered by a court of competent jurisdiction, prior to the planned discharge date each resident's record shall contain:

1. Documentation that discharge has been planned and discussed with the parent, legal guardian, child placing agency, and resident; and
2. A written discharge plan.

H. Discharge summaries.

1. No later than 30 days after discharge, a comprehensive discharge summary shall be placed in the resident's record and sent to the persons or agency which made the placement. The discharge summary shall review:

- a. Services provided to the resident;
- b. Resident's progress toward meeting service plan objectives;
- c. Resident's continuing needs and recommendations, if any, for further services and care;
- d. Reasons for discharge and names of persons to whom resident was discharged;
- e. Dates of admission and discharge; and
- f. Date the discharge summary was prepared and the signature of the person preparing it

2. In lieu of a comprehensive discharge summary, the record of each resident discharged upon receipt of the order of a court of competent jurisdiction shall contain a copy of the court order.

22 VAC 42-10-660. Placement of residents outside the facility.

A resident shall not be placed outside the facility prior to the facility's obtaining a child-placing agency license from the Department of Social Services except as permitted by statute or by order of a court of competent jurisdiction.

22 VAC 42-10-670. Social services.

A. The program of the facility, except a secure detention facility in which juveniles are not confined with a suspended commitment to the Department of Juvenile Justice, shall be designed to provide social services which address:

- 1. Helping the resident and the parents or legal guardian to understand the effects on the resident of separation from the family and the effect of group living;
- 2. Assisting the resident and the family to maintain their relationships and prepare for the resident's future care;
- 3. Utilizing appropriate community resources to provide services and maintain contacts with such resources;

4. Helping the resident strengthen his capacity to function productively in interpersonal relationships;

5. Conferring with the child care staff to help them understand the resident's needs in order to promote adjustment to group living; and

6. Working with the resident and with the family or any placing agency that may be involved in planning for the resident's future and in preparing the resident for the return home or to another family, for independent living, or for other residential care.

B. The provision of social services shall be documented in each resident's record.

C. Social services consistent with the goals of the service plan shall be provided to meet the specific needs of each resident, except residents of secure detention facilities who are not confined with a suspended commitment to the Department of Juvenile Justice, in one of the following ways:

1. By or under the direct supervision of a staff member who (i) holds a bachelor's degree in psychology, counseling, social work, or other discipline specifically approved by the regulatory authority and (ii) has completed two years of successful experience in psychology, counseling, social work, or other field specifically approved by the regulatory authority (In lieu of two years experience, the person may work under the direct supervision of a qualified supervisor for a period of two years.);

2. By service staff of the agency that placed the resident provided such staff is available on an as-needed basis rather than on a limited basis (e.g. quarterly or semi-annually);

3. On a contract basis by a professional licensed to practice in the Commonwealth of Virginia, other state or the District of Columbia; or

4. On a contract basis by a professional child and family service worker who is working under the auspices of a public or private, nonprofit agency sponsored by a community-based group.

22 VAC 42-10-680. Therapy.

Therapy, if provided, shall be provided by an individual (i) licensed as a therapist by the Department of Health Professions or (ii) who is licensure eligible and working under the supervision of a licensed therapist, unless exempted from these requirements under the *Code of Virginia*.

22 VAC 42-10-690. Structured program of care.

- A. There shall be evidence of a structured program of care designed to:
 - 1. Meet the residents' physical and emotional needs;
 - 2. Provide protection, guidance and supervision; and
 - 3. Meet the objectives of any required service plan.
- B. There shall be evidence of a structured daily routine designed to ensure the delivery of program services.
- C. A daily activity log shall be maintained to inform staff of significant happenings or problems experienced by residents.
- D. Health and dental complaints and injuries shall be recorded and shall include the (i) resident's name, complaint, and affected area and (ii) time of the complaint.
- E. The identity of the individual making each entry in the daily activity log shall be recorded.
- F. Routines shall be planned to ensure that each resident receives the amount of sleep and rest appropriate for his age and physical condition.
- G. Staff shall promote good personal hygiene of residents by monitoring and supervising hygiene practices each day and by providing instruction when needed.

22 VAC 42-10-700. Health care procedures.

- A. The facility shall have and implement written procedures for promptly:
 - 1. Providing or arranging for the provision of medical and dental services for health problems identified at admission;
 - 2. Providing or arranging for the provision of routine ongoing and follow-up medical and dental services after admission;
 - 3. Providing emergency services for each resident as provided by statute or by the agreement with the resident's legal guardian, and

4. Providing emergency services for any resident experiencing or showing signs of suicidal or homicidal thoughts, symptoms of mood or thought disorders, or other mental health problems.

B. The following written information concerning each resident shall be readily accessible to staff who may have to respond to a medical or dental emergency:

1. Name, address, and telephone number of the physician and dentist to be notified;
2. Name, address, and telephone number of a relative or other person to be notified;
3. Medical insurance company name and policy number or Medicaid number;
4. Information concerning:
 - a. Use of medication;
 - b. Medication allergies;
 - c. Substance abuse; and
 - d. Significant past or present medical problems; and
5. Written permission for emergency medical care, dental care, and obtaining immunizations or a procedure and contacts for obtaining consent; and
6. Subsections 3 and 5 do not apply to secure detention facilities except when a resident is confined in detention with a suspended commitment to the Department of Juvenile Justice.

C. Facilities approved to provide respite care shall update the information required by subsection B of this section at the time of each stay at the facility.

22 VAC 42-10-710. Medical examinations and treatment.

A. Each child accepted for care shall have a physical examination by or under the direction of a licensed physician no earlier than 90 days prior to admission to the facility or no later than seven days following admission except (i) the report of an examination within the preceding 12 months shall be acceptable if a child transfers from one residential facility licensed or certified by a state agency to another, (ii) a physical examination shall be conducted within 30 days following an emergency admission if a report of physical examination is not available, and (iii) this requirement does not apply if a child is admitted to a secure detention facility or to a temporary care facility.

B. Each resident's record shall include written documentation of (i) the initial physical examination, (ii) an annual physical examination by a licensed physician including any recommendation for follow up care, and (iii) documentation of the provision of follow-up medical care recommended by the physician or as indicated by the needs of the resident

C. Each physical examination report shall include:

1. Information necessary to determine the health and immunization needs of the resident, including:

- a. Immunizations administered;
- b. Vision exam;
- c. Hearing exam;
- d. General physical condition, including documentation of apparent freedom from communicable disease including tuberculosis;
- e. Allergies, chronic conditions, and handicaps, if any;
- f. Nutritional requirements, including special diets, if any;
- g. Restrictions on physical activities, if any; and
- h. Recommendations for further treatment, immunizations, and other examinations indicated;

2. Date of the physical examination; and

3. Signature of a licensed physician, the physician's designee, or an official of a local health department.

D. A child with a communicable disease shall not be admitted unless a licensed physician certifies that:

1. The facility is capable of providing care to the child without jeopardizing residents and staff; and

2. The facility is aware of the required treatment for the child and the procedures to protect residents and staff.

The requirements of this subsection shall not apply to temporary emergency shelters and secure detention facilities.

E. Each resident's record shall include written documentation of (i) an annual examination by a licensed dentist and (ii) documentation of follow-up dental care recommended by the dentist or as indicated by the needs of the resident. This requirement does not apply to secure detention facilities, temporary care facilities, and respite care facilities.

F. Each resident's record shall include notations of health and dental complaints and injuries and shall summarize symptoms and treatment given.

G. Each resident's record shall include, or document the facility's efforts to obtain, treatment summaries of ongoing psychiatric or other mental health treatment and reports, if applicable. This subsection does not apply to secure detention facilities except when a juvenile is confined in detention with a suspended commitment to the Department of Juvenile Justice.

H. Written policies and procedures, which include use of universal precautions, shall be developed and implemented to address communicable and contagious medical conditions.

I. A well stocked first-aid kit shall be maintained and readily accessible for minor injuries and medical emergencies.

22 VAC 42-10-720. Medication.

A. All medication shall be securely locked and properly labeled.

B. All staff responsible for medication administration shall have successfully completed a medication training program approved by the Board of Nursing or be licensed by the Commonwealth of Virginia to administer medications.

C. Medication shall be administered only by staff authorized to do so by the director.

D. Staff authorized to administer medication shall be informed of any known side effects of the medication and the symptoms of the effects.

E. A program of medication shall be initiated for a resident only when prescribed in writing by a licensed physician.

F. Medication prescribed by a licensed physician shall be administered as prescribed.

G. A daily log shall be maintained of all medicines received by each resident and shall identify the individual who administered the medication.

H. In the event of a medication error or an adverse drug reaction, first aid shall be administered if indicated. Staff shall promptly contact a poison control center, pharmacist, nurse, or physician and shall take actions as directed. If the situation is not addressed in standing orders, the attending physician shall be notified as soon as possible and the actions taken by staff shall be documented.

I. The telephone number of a regional poison control center shall be posted on or next to each nonpay telephone that has access to an outside line in each building in which children sleep or participate in programs.

J. At least one unexpired 30 cc bottle of Syrup of Ipecac and one unexpired container of activated charcoal shall be available on the premises of the facility for use at the direction of the poison control center or physician and shall be kept locked when not in use.

K. Syringes and other medical implements used for injecting or cutting skin shall be locked.

22 VAC 42-10-730. Nutrition.

A. Each resident shall be provided a daily diet which (i) consists of at least three nutritionally balanced meals and an evening snack, (ii) includes an adequate variety and quantity of food for the age of the resident, and (iii) meets minimum nutritional requirements and the U.S. Dietary Guidelines.

B. Menus shall be kept on file for at least six months.

C. Special diets shall be provided when prescribed by a physician and the established religious dietary practices of the resident shall be observed.

D. Staff who eat in the presence of the residents shall be served the same meals as the residents unless a special diet has been prescribed by a physician for the staff or residents or the staff or residents are observing established religious dietary practices.

E. There shall not be more than 15 hours between the evening meal and breakfast the following day.

F. Facilities shall assure that food is available to residents who wish to eat breakfast before the 15 hours have expired.

G. Facilities shall receive approval from their regulatory authority if they wish to extend the time between meals on weekends and holidays. There shall never be more than 17 hours between the evening meal and breakfast the following day on weekends and holidays.

22 VAC 42-10-740. Staff Supervision of Children.

A. No member of the child care staff shall be on duty more than six consecutive days without a rest day except in an emergency.

B. Child care staff shall have an average of at least two rest days per week in any four-week period. Rest days shall be in addition to vacation time and holidays.

C. Child care staff other than live-in staff shall not be on duty more than 16 consecutive hours except in an emergency.

D. There shall be at least one trained child care worker on the premises, on duty and actively supervising children at all times that one or more children are present.

E. Supervision Policies

1. The facility shall develop and implement written policies and procedures which address staff supervision of children.

2. Written policies and procedures governing supervision of children shall be reviewed and approved by the regulatory authority prior to implementation.

3. The supervision policies or a summary of the policies shall be provided, upon request, to the placing agency or legal guardian prior to placement.

F. During the hours that children are scheduled to be awake there shall be at least one child care staff member awake, on duty and responsible for supervision of every 10 children, or portion thereof, on the premises or participating in off-campus, facility-sponsored activities except:

1. Independent living programs shall have at least one child care staff member awake, on duty and responsible for supervision of every 15 children on the premises or participating in off-campus, facility-sponsored activities;

2. For children under four years of age, there shall be at least one child care staff member awake, on duty and responsible for supervision of every three children who are on the premises or participating in off-campus, facility-sponsored activities except that this requirement does not apply to severely multi-handicapped, nonambulatory children;

3. For severely multi-handicapped, nonambulatory children, there shall be at least one child care staff member awake, on duty and responsible for supervision of every six children;

4. Programs that accept mothers and their children shall have at least one child care staff member awake, on duty and responsible for supervision of every six children (counting both mothers and their children); and

5. Except when exempted by the regulatory authorities, programs that are licensed or certified by the Department of Mental Health, Mental Retardation and Substance Abuse Services to provide treatment services for children with diagnosed mental illness or diagnosed severe emotional or behavioral problems where close supervision is indicated shall have at least one child care staff member awake, on duty and responsible for supervision of every eight children.

G. During the hours that residents are scheduled to sleep there shall be no less than one child care staff member on duty and responsible for supervision of every 16 children, or portion thereof, on the premises, except for programs that accept mothers and their children, there shall be at least one child care staff member in the building, on duty and responsible for every 10 residents.

H. There shall be at least one child care staff member on duty and responsible for the supervision of residents in each building where residents are sleeping. When there are 16 or more residents in a building, the staff person shall remain awake, and the ratio of one staff person to every 16 residents or portion thereof shall be maintained. For less than 16 residents in the building, the staff person may sleep but shall be on duty and responsible for supervision. This requirement does not apply to approved independent living programs.

I. On each floor where children are sleeping, there shall be at least one child care staff member awake and on duty for every 30 children or portion thereof.

22 VAC 42-10-750. Emergency telephone numbers.

A. Residents who are away from the facility and the adults responsible for their care during the absence shall be furnished with a telephone number where a responsible facility staff member or other responsible adult may be reached at all times. This subsection does not apply to residents of secure detention facilities.

B. When children are on the premises of the facility, the staff on duty shall be furnished with a telephone number where the administrator or his designee may be reached at all times.

22 VAC 42-10-760. Children's privacy.

Children shall be provided privacy from routine sight supervision by staff members of the opposite gender while bathing, dressing, or conducting toileting activities. This section does not apply to medical personnel performing medical procedures, to staff providing assistance to infants, or to staff providing assistance to children whose physical or mental disabilities dictate the need for assistance with these activities as justified in the client's record.

22 VAC 42-10-770. Searches.

A. Strip searches and body cavity searches are prohibited except:

1. As permitted by other applicable state regulations; or
2. As ordered by a court of competent jurisdiction.

B. A facility that does not conduct pat downs shall have a written policy prohibiting them.

C. A facility that conducts pat downs shall develop and implement written policies and procedures governing them which shall provide that:

1. Pat downs shall be limited to instances where they are necessary to prohibit contraband;
2. Pat downs shall be conducted only in accordance with the written policies and procedures;

3. Pat downs shall be conducted by personnel of the same gender as the client being searched;

4. Pat downs shall be conducted only by personnel who are specifically authorized to conduct searches by the written policies and procedures; and

5. Pat downs shall be conducted in such a way as to protect the subject's dignity and in the presence of one or more witnesses.

22 VAC 42-10-780. Management of resident behavior.

A. The facility shall have and implement written policies and procedures for behavior management and for documenting and monitoring the management of resident behavior. Rules of conduct, if any, shall be included in the written policies and procedures.

B. Written information concerning management of resident behavior shall be provided prior to admission to prospective residents, except those with diagnosed mental disabilities resulting in the loss of the cognitive ability to understand the information, legal guardians, and referral agencies. For court ordered and emergency admissions, this information shall be provided to:

1. Residents, except those with diagnosed mental disabilities resulting in the loss of the cognitive ability to understand the information, within 12 hours following admission;

2. Referral agencies within 72 hours following the resident's admission; and

3. Legal guardians within 72 hours following the resident's admission except that this requirement does not apply:

a. To secure detention facilities except when a juvenile is confined in detention with a suspended commitment to the Department of Juvenile Justice;

b. When a facility is providing temporary care of 30 days or less while conducting a diagnostic evaluation to identify the most appropriate long-term placement for a child who has been committed to the Department of Juvenile Justice; and

c. When a state mental hospital is evaluating a child's treatment needs as provided by the *Code of Virginia*.

C. When substantive revisions are made to policies governing management of resident behavior, written information concerning the revisions shall be provided to:

1. Residents prior to implementation, except for those residents with diagnosed mental disabilities resulting in the loss of the cognitive ability to understand the information; and
2. Legal guardians and referral agencies except that this requirement does not apply:
 - a. To secure detention facilities;
 - b. When a facility is providing temporary care of 30 days or less while conducting a diagnostic evaluation to identify the most appropriate long-term placement for a child who has been committed to the Department of Juvenile Justice; and
 - c. When a state mental hospital is evaluating a child's treatment needs as provided by the *Code of Virginia*.

D. Only trained staff members may manage resident behavior.

22 VAC 42-10-790. Confinement.

- A. The facility shall have and implement written policies and procedures governing the conditions under which a resident may be confined and the maximum period of confinement. The conditions and maximum period of confinement shall be based on the resident's chronological and developmental level.
- B. The room in which a resident is confined shall not be locked nor the door secured in a manner that prevents the resident from opening it, except that this subsection does not apply to secure custody facilities.
- C. A confined resident shall be able to communicate with staff.
- D. Staff shall check on the resident in the room at least every 30 minutes and more often depending on the nature of the resident's disability, condition and behavior.
- E. Use of confinement and staff checks on the residents shall be documented when confinement is used for managing resident behavior.

22 VAC 42-10-800. Prohibitions.

The following actions are prohibited:

1. Deprivation of drinking water or food necessary to meet a resident's daily nutritional needs except as ordered by a licensed physician for a legitimate medical purpose and documented in the resident's record;
2. Limitation on contacts and visits with the resident's attorney, a probation officer, regulators or placing agency representative;
3. Bans on contacts and visits with family or legal guardians except as permitted by other applicable state regulations or by order of a court of competent jurisdiction;
4. Delay or withholding of incoming or outgoing mail except as permitted by other applicable state and federal regulations or by order of a court of competent jurisdiction;
5. Any action which is humiliating, degrading, or abusive;
6. Corporal punishment;
7. Subjection to unsanitary living conditions;
8. Deprivation of opportunities for bathing or access to toilet facilities except as ordered by a licensed physician for a legitimate medical purpose and documented in the resident's record;
9. Deprivation of health care;
10. Deprivation of appropriate services and treatment;
11. Application of aversive stimuli except as permitted pursuant to other applicable state regulations;
12. Administration of laxatives, enemas, or emetics except as ordered by a licensed physician or poison control center for a legitimate medical purpose and documented in the resident's record;
13. Deprivation of opportunities for sleep or rest except as ordered by a licensed physician for a legitimate medical purpose and documented in the resident's record; and
14. Limitation on contacts and visits with advocates employed by the Department of Mental Health, Mental Retardation and Substance Abuse Services or the Department for Rights of Virginians with Disabilities.

22 VAC 42-10-810. Chemical or mechanical restraints.

- A. Use of mechanical restraints is prohibited except as permitted by other applicable state regulations or as ordered by a court of competent jurisdiction.
- B. Use of chemical restraints is prohibited.

22 VAC 42-10-820. Physical restraint.

A. The facility shall have and implement written policies and procedures governing use of physical restraint.

B. The facility's procedures shall include methods to be followed should physical restraint, less intrusive interventions, or measures permitted by other applicable state regulations prove unsuccessful in calming and moderating the resident's behavior.

C. Use of physical restraint shall be limited to that which is minimally necessary to protect the resident or others.

D. Trained staff members may physically restrain a resident only after less intrusive interventions have failed or when failure to restrain would result in harm to the resident or others.

E. Each application of physical restraint shall be fully documented in the resident's record including:

1. Date;
2. Time;
3. Staff involved;
4. Circumstances;
5. Reasons for using physical restraint;
6. Duration;
7. Method or methods of physical restraint used; and
8. Less intrusive interventions which were unsuccessfully attempted prior to using physical restraint.

F. Each staff member responsible for supervision of children shall receive basic orientation to the facility's physical restraint procedures and techniques and to less intrusive interventions within seven days following employment.

1. Physical restraint shall be applied only by staff who have been trained in the facility's physical restraint procedures and techniques.

2. Staff shall review the facility's training in physical restraint and less intrusive interventions at least annually.

22 VAC 42-10-830. Seclusion.

Seclusion is allowed only as permitted by other applicable state regulations.

22 VAC 42-10-840. Timeout.

Timeout is allowed only as permitted by other applicable state regulations.

22 VAC 42-10-850. Education.

A. Each resident of compulsory school attendance age shall be enrolled in an appropriate educational program as provided in the *Code of Virginia*.

B. The facility shall ensure that educational guidance and counseling in selecting courses is provided for each resident and shall ensure that education is an integral part of the resident's total program.

C. Facilities operating educational programs for children with disabilities shall operate those programs in compliance with applicable state and federal statutes and regulations.

D. When a child with disabilities has been placed in a residential facility without the knowledge of school division personnel in the resident's home locality, the facility shall contact the superintendent of public schools in that locality in order to effect compliance with applicable state and federal requirements relative to the education of children with disabilities.

E. A facility which has an academic or vocational program that is not certified or approved by the Department of Education shall document that teachers meet the qualifications to teach the same subjects in the public schools.

22 VAC 42-10-860. Religion.

A. The facility shall have and implement written policies regarding opportunities for residents to participate in religious activities.

B. The facility's policies on religious participation shall be available to residents and any individual or agency considering placement of a child in the facility.

C. Residents shall not be coerced to participate in religious activities.

22 VAC 42-10-870. Recreation.

A. The facility shall have a written description of its recreation program which describes activities which are consistent (i) with the facility's total program and (ii) with the ages, developmental levels, interests, and needs of the residents.

B. The facility shall have and implement a recreation program which is consistent with the written description and which includes:

1. Opportunities for individual and group activities;
2. Free time for residents to pursue personal interests which shall be in addition to a formal recreation program except this subsection does not apply to secure custody facilities;
3. Use of available community recreational resources and facilities except this subsection does not apply to secure custody facilities;
4. Scheduling of activities so that they do not conflict with meals, religious services, educational programs or other regular events; and
5. Regularly scheduled indoor and outdoor recreational activities that are structured to develop skills and attitudes.

C. Recreational programs and field trips shall be directed and supervised by adults who are knowledgeable in the safeguards required for the activities.

22 VAC 42-10-880. Community relationships.

A. Opportunities shall be provided for the residents to participate in activities and to utilize resources in the community except this section does not apply to secure custody facilities.

B. The facility shall have and implement written procedures for evaluating persons or organizations in the community who wish to associate with residents on the premises or take residents off the premises. The procedures shall cover how the facility

will determine if participation in such community activities or programs would be in the residents' best interest.

22 VAC 42-10-890. Clothing.

- A. Provision shall be made for each resident to have an adequate supply of clean, comfortable, well-fitting clothes and shoes for indoor and outdoor wear.
- B. Clothes and shoes shall be similar in style to those generally worn by children of the same age in the community who are engaged in similar activities except this requirement does not apply to secure custody facilities.
- C. Residents shall have the opportunity to participate in the selection of their clothing except this requirement does not apply to secure custody facilities.
- D. Residents shall be allowed to take personal clothing when leaving the facility.

22 VAC 42-10-900. Allowances and spending money.

- A. The facility shall provide opportunities appropriate to the ages and developmental levels of the residents for learning the value and use of money except this requirement does not apply to secure detention facilities.
- B. There shall be a written policy regarding allowances which shall be made available to legal guardians at the time of admission except that this requirement does not apply to secure detention facilities.
- C. The facility shall have and implement written policies for safekeeping and for recordkeeping of any money that belongs to residents.
- D. A resident's funds, including any allowance or earnings, shall be used for the resident's benefit.

22 VAC 42-10-910. Work and employment.

- A. Assignment of chores, which are paid or unpaid work assignments, shall be in accordance with the age, health, ability, and service plan of the resident.
- B. Chores shall not interfere with school programs, study periods, meals or sleep.
- C. Work assignments or employment outside the facility, including reasonable rates of pay, shall be approved by the program director with the knowledge and consent of the legal guardian except this requirement does not apply to secure detention facilities.
- D. The facility shall have and implement written procedures to ensure that the work and pay of residents complies with applicable laws governing wages and hours and laws governing labor and employment of children. In both work assignments and employment, the program director shall evaluate the appropriateness of the work and the fairness of the pay.

22 VAC 42-10-920. Visitation at the facility and to the resident's home.

- A. The facility shall have and implement written visitation policies and procedures which allow reasonable visiting privileges and flexible visiting hours except as permitted by other applicable state regulations.
- B. Copies of the written visitation policies and procedures shall be made available to the parents, when appropriate, legal guardians, the resident, and other interested persons important to the resident no later than the time of admission except that when parents or legal guardians do not participate in the admission process, visitation policies and procedures shall be mailed to them within 24 hours after admission.
- C. In secure detention, except when a juvenile is confined in detention with a suspended commitment to the Department of Juvenile Justice, and temporary care facilities, written visitation policies and procedures shall be provided upon request to parents, legal guardians, residents, and other interested persons important to the residents.

22 VAC 42-10-925. Resident visitation at the homes of staff.

If a facility permits staff to take residents to the staff's home, the facility must receive written permission of the resident's legal guardian or placing agency before the visit occurs.

22 VAC 42-10-930. Vehicles and power equipment.

A. Transportation provided for or used by children shall comply with local, state, and federal laws relating to:

1. Vehicle safety and maintenance;
2. Licensure of vehicles;
3. Licensure of drivers; and
4. Child passenger safety, including requiring children to wear appropriate seat belts or restraints for the vehicle in which they are being transported.

B. There shall be written safety rules which shall include taking head counts at each stop, which are appropriate to the population served, for transportation of children.

C. The facility shall have and implement written safety rules for use and maintenance of vehicles and power equipment.

22 VAC 42-10-940. Reports to court.

When the facility has received legal custody of a child pursuant to the *Code of Virginia*, copies of any foster care plans submitted to the court shall be placed in the resident's record.

22 VAC 42-10-950. Emergency reports.

A. Any serious incident, accident or injury to the resident; any overnight absence from the facility without permission; any runaway; and any other unexplained absence shall be reported within 24 hours: (i) to the placing agency, (ii) to either the parent or legal guardian, or both as appropriate and (iii) noted in the resident's record.

B. The facility shall document the following:

1. The date and time the incident occurred;

2. A brief description of the incident;
3. The action taken as a result of the incident;
4. The name of the person who completed the report;
5. The name of the person who made the report to the placing agency and to either the parent or legal guardian; and
6. The name of the person to whom the report was made.

22 VAC 42-10-960. Suspected child abuse or neglect.

A. Written policies and procedures related to child abuse and neglect shall be distributed to all staff members. These shall include procedures for:

1. Handling accusations against staff; and
2. Promptly referring, consistent with requirements of the *Code of Virginia*, suspected cases of child abuse and neglect to the local child protective services unit and for cooperating with the unit during any investigation.

B. Any case of suspected child abuse or neglect shall be reported to the local child protective services unit as required by the *Code of Virginia*.

C. Any case of suspected child abuse or neglect occurring at the facility, on a facility-sponsored event or excursion, or involving facility staff shall be reported immediately (i) to the regulatory authority and placing agency and (ii) to either the resident's parent or legal guardian, or both, as appropriate.

D. When a case of suspected child abuse or neglect is reported to child protective services, the resident's record shall include:

1. The date and time the suspected abuse or neglect occurred;
2. A description of the incident;
3. Action taken as a result of the incident; and
4. The name of the person to whom the report was made at the local child protective services unit.

22 VAC 42-10-965. Grievance procedures.

The licensee shall develop, adopt, follow and maintain on file written policies and procedures governing the handling of grievances by children. If not addressed by other applicable standards, the policies and procedures shall:

1. Be written in clear and simple language;
2. Be communicated to the residents in an age or developmentally appropriate manner;
3. Be posted in an area easily accessible to residents and their parents and legal guardians;
4. Ensure that any grievance shall be investigated by an objective employee who is not the subject of the grievance; and
5. Require continuous monitoring by the licensee of any grievance to assure there is no retaliation or threat of retaliation against the child.

PART V DISASTER OR EMERGENCY PLANNING

22 VAC 42-10-970. Emergency and evacuation procedures.

A. Written procedures shall be developed and implemented for responding to emergencies including, but not necessarily limited to:

1. Severe weather;
2. Loss of utilities;
3. Missing persons;
4. Severe injury; and
5. Emergency evacuation, including alternate housing.

B. Written procedures shall address responsibilities of staff and residents regarding:

1. Sounding of an alarm;
2. Emergency evacuation including assembly points, head counts, primary and secondary means of egress, evacuation of children with special needs, and verifying complete evacuation of the buildings;
3. Alerting emergency authorities; and
4. Use of emergency equipment.

C. Emergency procedures shall address the handling of residents with special needs.

D. Floor plans showing primary and secondary means of egress shall be posted on each floor in locations where they can easily be seen by staff and residents.

E. The procedures and responsibilities reflected in the emergency procedures shall be communicated to all residents within seven days following admission or a substantive change in the procedures.

F. The telephone numbers of the authorities to be called in case of an emergency shall be prominently posted on or next to each telephone.

G. At least one evacuation drill (the simulation of the facility's emergency procedures) shall be conducted each month in each building occupied by residents.

H. Evacuation drills shall include, at a minimum:

1. Sounding of emergency alarms;
2. Practice in evacuating buildings;
3. Practice in alerting emergency authorities; and
4. Simulated use of emergency equipment.

I. During any three consecutive calendar months, at least one evacuation drill shall be conducted during each shift.

J. The facility shall assign at least one staff member responsibility for conducting and documenting evacuation drills.

K. A record shall be maintained for each evacuation drill and shall include the following:

1. Buildings in which the drill was conducted;
2. The date and time of drill;
3. The amount of time to evacuate the buildings;
4. Specific problems encountered;
5. Staff tasks completed including:
 - a. Head count, and
 - b. Practice in notifying emergency authorities;
6. A summary; and
7. The name of the staff members responsible for conducting and documenting the drill and preparing the record.

L. The record for each evacuation drill shall be retained for three years after the drill.

M. The facility shall assign one staff member responsibility for the evacuation drill program at the facility who shall:

1. Ensure that evacuation drills are conducted at the times and intervals required by these interdepartmental standards and the facility's emergency procedures;
2. Review evacuation drill reports to identify problems in conducting the drills and in implementing the requirements of the emergency procedures;
3. Consult with the local emergency authorities, as needed, and plan, implement and document training or other actions taken to remedy any problems found in implementing the procedures; and

4. Consult and cooperate with local emergency authorities to plan and implement an educational program for facility staff and residents on topics in safety.

22 VAC 42-10-980. Notifications.

In the event of a disaster, fire, emergency or any other condition at the facility that may jeopardize the health, safety or well-being of the children, the facility shall:

1. Take appropriate action to protect the health, safety and well-being of the children;
2. Take appropriate actions to remedy the conditions as soon as possible, including reporting to and cooperating with local health, fire, police or other appropriate officials; and
3. Notify the regulatory authorities as soon as possible of the conditions at the facility and the status of the residents.

22 VAC 42-10-990. Written fire plan.

- A. The facility shall develop a written plan to be implemented in case of a fire.
- B. Procedures and responsibilities reflected in the written fire plan shall be communicated to all residents within seven days following admission or a substantive change in the plan.
- C. The telephone number of the fire department to be called in case of fire shall be prominently posted on or next to each telephone.

22 VAC 42-10-1000. Staff training.

- A. Each staff member shall be trained in fire procedures in accordance with the Virginia Statewide Fire Prevention Code (13 VAC 5-51-10 et. seq.).
- B. Each new staff member shall be trained in emergency and evacuation procedures and their implementation prior to working alone while supervising one or more children and within seven days of employment.